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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

INDIGENOUS ENVIRONMENTAL
NETWORK and NORTH COAST
RIVER ALLIANCE,

Plaintiff,

vs.

UNITED STATES DEPARTMENT OF
STATE; THOMAS A. SHANNON, JR.,
in his Official Capacity as U.S. Under
Secretary of State; UNITED STATES
FISH AND WILDLIFE SERVICE, a
federal agency; JAMES W. KURTH, in
his official Capacity as Acting Director
of the U.S. Fish and Wildlife Service;
and RYAN KEITH ZINKE, in his
official Capacity as Secretary of the
Interior,

Federal Defendants,

CV 17-29-GF-BMM

**SUPPLEMENTAL MOTION TO
DISMISS BY TRANSCANADA
KEYSTONE
PIPELINE, LP AND
TRANSCANADA
CORPORATION**

and

TRANSCANADA KEYSTONE
PIPELINE and TRANSCANADA
CORPORATION,

Defendant-Intervenors.

TransCanada Keystone Pipeline, LP and TransCanada Corporation (collectively, “TransCanada”), Defendant-Intervenors, hereby move to dismiss the third claim presented in Plaintiffs’¹ First Amended Complaint for Declaratory and Injunctive Relief.² (ECF No. 61). Previously, TransCanada filed a motion to dismiss all claims presented in Plaintiffs’ original complaint. (ECF Nos. 48, 49).

As set forth in TransCanada’s accompanying Memorandum in Support, Plaintiffs’ third claim for relief against Federal Defendants should be dismissed. This Administrative Procedure Act, 5 U.S.C. §§ 701-706, and Endangered Species Act claim, 16 U.S.C. §§ 1531 *et seq.*, against Federal Defendants should be dismissed pursuant to Rule 12(b)(1), because there is no waiver of sovereign immunity, and Rule 12(b)(6), for failure to state a claim.

¹ Indigenous Environmental Network and North Coast River Alliance (collectively, “Plaintiffs”).

² Plaintiffs’ First Amended Complaint was filed as an exhibit to its motion to file a First Amended Complaint on July 14, 2017. (ECF No. 61).

For the foregoing reasons and the grounds set forth in the accompanying memorandum as well as the motion and memorandum filed earlier (ECF Nos. 48, 49), TransCanada moves to dismiss Plaintiffs' claims in their entirety.

Pursuant to Local Rule 7.1(c)(1), counsel for TransCanada contacted counsel for the parties regarding the filing of this motion, and Plaintiffs oppose the motion.

Dated this 18th day of August, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon the following counsel of record, by the means designated below, this 18th day of August, 2017:

<u>1 - 6</u>	CM/ECF
_____	Hand Delivered
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